



**Washington State Gambling Commission
Study Session Agenda
Charitable Nonprofit Operators
August 10, 2006
9:30 – 10:00 a.m.**

- Rules Simplification Project (RSP):
 - Project Schedule

- New Rule Proposals:
 - WAC 230-04-190, 04-203 Two-part Payment Plan
 - WAC 230-20-110 (1)(c) Prohibited Practice

- Agency Request Legislation Update
 - Barring Known Criminals
 - Gambling Commission Powers and Duties
 - Minimum Age for Gambling

- Consistency Questions (for next meeting)

- Commission Meeting Agenda

- Open Discussion

**The next Study Session will be held on September 14, 2006
At the Red Lion in at the Park Hotel in Spokane**



**Washington State Gambling Commission
Study Session Agenda
Commercial Operators
August 10, 2006
10:00 a.m. – Noon**

- Responses to Questions From Previous Study Session
- Agency Request Legislation Update
 - Barring Known Criminals
 - Gambling Commission Powers and Duties
 - Minimum Age for Gambling
- New Rule Proposals
 - WAC 230-40-855 Acceptance of tips from patrons for house-banked activities
 - WAC 230-04-190, 04-203 Two-part Payment Plan
- Rules Simplification Project:
 - Project Schedule
 - Chapter 15 – Card Room Rules (Second Half) – *Tentatively Scheduled*
- Underage Gambling – Focus on Gambling Newsletter Article
- Consistency Questions (for next meeting)
- Commission Meeting Agenda
- Open Discussion

**The next Study Session will be held on September 14, 2006
At the Red Lion in at the Park Hotel in Spokane**

Rule Simplification Project Schedule

Rewrite Date	Chapter	Location in RSP Process	Planned Commission Appearance	Number of words reduced
February 2006	Chapter 03 Permitting and Licensing and Chapter 05 Fees	Passed in March	January, February, March	Rules from Ch 04, 08, 12 25,786 <u>-9352</u> 16,434
March 2006	Chapter 06 Rules for All Licensees	Passed in June	February, March, April	Rules from Ch 08, 12 14,397 <u>-3467</u> 10,930
April 2006	Chapter 11 Raffle Rules	Up for Final Action at August Commission Meeting	June, July, August	Rules from Ch 20 4889 <u>-3335</u> 1554
May 2006	Chapter 09 Fund-Raising Event Rules	<u>Postponed from July Agenda</u> ; Up for possible filing at August Commission Meeting	<u>Moved up into Ch 15's place</u> July, August, September, October	Rules from Ch 04, 08, 12 7601 <u>-4269</u> 3332
March 2006	Ch 15 Card Room Rules	Admin meetings continue due to volume and technical difficulty	<u>Pushed back to</u> September, October, November	Rules from Ch 40 27,348 <u>-*23,011</u> *4307
April 2006	Ch 18 Promotional Contests of Chance	Up for possible filing at August Commission Meeting	<u>Moved up to</u> August, September, October October, November, January	Rules from Ch 46 967 <u>-510</u> 457

Rule Simplification Project Schedule

April 2006	Ch 07 Charitable and Nonprofit Organization Rules	Admin Meetings set to begin	November 2006, January 2007, February 2007 <u>Moved up to October 2006,</u> November 2006, January 2007	Rules from Ch 08, 12, 20 9704 <u>-*8076</u> *1628
July 2006	Ch 10 Bingo Rules	Rewriting begun*	<u>Returned to original schedule:</u> January 2007, February 2007, March 2007	
	Ch 17 Hearing Rules		February 2007, March 2007, April 2007	
	Ch 13 Amusement Game Rules		March 07, April 07, May 07	
	Ch 14 Punch Board and Pull-Tab Rules		April 07, May 07, June 07	
	Ch 16 Manufacturers, Distributors, and Gambling Service Suppliers		May 07, June 07, August 07	
	Ch 01 About the Commission		June 07, August 07, September 07	
	Repealers, Housekeeping, and Printing Business		August 07, September 07, October 07	
January 1, 2008 All new rules become effective				

* Marks rules still being simplified and therefore may be a lower total

WAC 230-04-190

Issuance of license — Expiration — Restrictions.

The commission may only issue a license to qualified applicants. All licenses are issued subject to the following restrictions:

(1) The commission may issue the following licenses:

(a) Charitable and nonprofit organizations and **agricultural** fairs. The commission may issue a license to qualified bona fide charitable or nonprofit organizations or to qualified agricultural fairs to **operate** each of the following activities upon a specified location:

(i) Bingo;

(ii) Raffles;

(iii) Amusement games;

(iv) Punch boards and pull-tabs;

(v) Social card games; and

(vi) Fund raising events as defined in RCW 9.46.0233: Provided, That any agricultural fair authorized under the provisions of chapter 15.76 or 36.37 **RCW** is prohibited from conducting fund raising events.

(b) Commercial amusement games. The commission may issue a separate license to any person to operate amusement **games** at one or more of the locations listed in WAC 230-04-138.

(c) Commercial stimulant card games. The commission may issue a license to any person operating a business primarily engaged in the selling of items of food or drink for consumption on the premises to allow a specified portion of a specified premises to be used by persons to play authorized card games.

(d) Public card room employee. The commission may issue a license to any person to perform duties in a public card room.

(e) Commercial stimulant punch boards and pull-tabs. The commission may issue a license to a person operating a business primarily engaged in the selling of items of food or drink for consumption on the premises to operate punch boards and pull-tabs upon specified premises.

(f) Manufacturers and distributors of gambling equipment and paraphernalia. The **commission** may issue a separate or **combination** license to the following:

(i) Manufacturers of punch boards, pull-tabs, devices for the dispensing of pull-tabs, bingo equipment, and other gambling equipment, supplies, and **paraphernalia**; and

(ii) Distributors of punch boards, pull-tabs, devices for the dispensing of pull-tabs, bingo equipment, and any gambling equipment, supplies, or paraphernalia for use in connection with authorized activities.

(g) Representatives of manufacturers or distributors. The commission may issue a separate license to a representative of a manufacturer or distributor to engage in the sale and distribution of gambling equipment and paraphernalia.

(h) Recreational gaming activity permit. The **commission** may issue a permit to an organization that has been in existence for at least six months to conduct a recreational gaming activity as defined by WAC 230-02-505.

License expiration.

(2) Each such license shall be valid for the period of time or the level of gross gambling receipts set forth on the license. In **no** case shall the time period exceed one year from the date that such license is issued: Provided, That license expiration dates may be adjusted by commission staff to schedule workload. Organizations licensed for more than one activity may have all expiration dates adjusted to end on the same

day. Whenever license expiration dates are adjusted under this provision, the required fee shall be prorated by the commission. The prorated fees shall be computed on a monthly basis (i.e., one-twelfth of the annual payment per month) and subtracted from the regular annual fee. A prorated fee will be based on the number of whole months remaining upon approval of a license. For purposes of computing fees under this section, any part of a month in which the activity is authorized to be operated shall be deemed to be a whole month. Any difference between the required fee which exceeds twenty dollars, shall be refunded to the applicant. Specific expiration dates are as follows:

(a) Licenses issued to conduct any authorized activity in connection with and upon the site of a qualified agricultural fair, qualified community-wide civic festival, qualified world's fair, or qualified civic center shall be valid only for the duration of the fair or festival, or, in the case of an activity at a civic center, for the seasons during which the civic center is operating and open to the public. In no event shall such license exceed one calendar year.

(b) A license issued to conduct a **raffle** in connection with a qualified agricultural fair, qualified **community-**wide civic festival or qualified world's fair shall be in effect from the date the license was issued through the conclusion of the fair or festival;

(c) A license issued to conduct a card tournament shall be valid only for the duration of the tournament, but in no event shall exceed ten consecutive days;

(d) A license issued to conduct a fund raising event shall be valid only for the place and time set forth in the application or otherwise approved by the commission. The number of events permitted under the license in any calendar year is subject to the limitations set out in RCW 9.46.0233 defining a fund raising event: Provided, That a fund raising event license shall allow an organization to have possession of gambling equipment authorized for use at a fund raising event for a period of one year beginning on the day of the event and to rent such for up to four occasions per year to other organizations licensed to operate fund raising events;

(e) A license issued to an individual shall be valid for a period not to exceed one year from the date the individual was assigned duties requiring a license, the date the license was actually issued, or as set forth elsewhere in this title, whichever occurs first: Provided, That a charitable or nonprofit gambling manager or distributor representative license shall become void upon a change of employer; and

(f) A bingo license that has been limited under the **restrictions** of WAC 230-20-062 shall expire when the level of authorized gross gambling receipts is reached. A license that expires under this subsection shall not be granted an increase in license class for the **current** license period until all requirements of WAC 230-04-260 have been met or the **commission** grants an increase in license class under procedures set forth in WAC 230-20-062.

Reinstating expired licenses.

(3) If any licensee fails to submit a properly completed application and all applicable fees prior to the normal expiration date, the license shall expire and the operation of the applicable activity must immediately cease. When a license expires, a new application must then be submitted and a **prelicensing evaluation/investigation** to the extent deemed necessary by the director will be completed prior to granting a license: Provided, That if a properly completed renewal application and fees are received at the commission headquarters office within the fourteen-day period following the expiration date, the commission may reinstate the license using normal renewal procedures. Reinstating a license under this provision does not, in any case, grant authority to operate the activity during the period between the **normal** expiration date and the date of reinstatement.

Two-part payment plan for license fees.

(4) The **commission** may allow an applicant renewing an annual license or applying for an additional license **except for a house banked card game license** to pay the license fee in two payments under the following conditions:

(a) The license fee is at least eight hundred dollars;

(b) The applicant pays an administrative processing fee as set forth in WAC 230-04-202 or 230-04-203, plus one-half of the annual license fee at the time of application or renewal;

(c) Licenses issued under the two-payment plan shall be issued with an **expiration** date as determined by subsection (2) of this section and a second-half payment due date. If the second-half payment is received on or before the due date, the license will remain in effect until the expiration date. If the licensee fails to submit the second-half payment prior to the due date, the license shall expire and all operations of the activity must stop; and

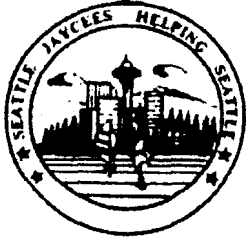
(d) Gross gambling receipts during the first-half payment period must not exceed fifty percent of the authorized class limitation for annual gross gambling receipts. Licensees whose gross gambling receipts exceed fifty percent of the authorized level shall be required to apply for a license at the appropriate license **class** as required by WAC 230-04-260 and pay the full upgrade fee, plus an administrative processing **fee**, as set forth in WAC 230-04-202 and 230-04-203.

Conditions of license Issuance.

(5) All activities so licensed are licensed subject to compliance with all of the applicable provisions of chapter 9.46 RCW, including any amendments thereto, all applicable rules and regulations passed by the commission, all other applicable laws of the United States, the state of Washington and all political subdivisions of the state of Washington which include but are not limited to the **following**:

- (a) Business licenses or permits;
- (b) Health certificates;
- (c) Fire inspections;
- (d) Use and occupancy permit; and
- (e) Liquor license or permit.

[Statutory Authority: RCW 9.46.070, 01-11-063 (Order 401), § 230-04-190, filed 5/11/01, effective 6/11/01. Statutory Authority: RCW 9.46.070 (1), (2), 97-14-013, § 230-04-190, filed 6/20/97, effective 7/21/97. Statutory Authority: RCW 9.46.070 and 9.46.116, 96-24-007 (Order 304), § 230-04-190, filed 11/21/96, effective 1/1/97. Statutory Authority: RCW 9.46.070, 94-23-007, § 230-04-190, filed 11/3/94, effective 1/1/95. Statutory Authority: RCW 9.46.0331.91-22-029 (Order 229), § 230-04-190, filed 10/29/91, effective 11/29/91. Statutory Authority: Chapter 9.46 RCW, 91-15-040 (Order 224), § 230-04-190, filed 7/17/91, effective 8/17/91. Statutory Authority: Chapter 34.05 RCW, 90-03-064 (Order 203), § 230-04-190, filed 1/18/90, effective 2/18/90. Statutory Authority: RCW 9.46.070 (4), (11) and (14), 89-24-002 (Order 201), § 230-04-190, filed 11/27/89, effective 12/28/89. Statutory Authority: RCW 9.46.070 (7), (8), (9), (10), (14), (19) and (20), 89-09-047 (Order 190), § 230-04-190, filed 4/18/89, effective 7/1/89. Statutory Authority: RCW 9.46.070 (8), (11) and (14), 88-13-060 (Order 179), § 230-04-190, filed 6/14/88. Statutory Authority: RCW 9.46.070 (1), (2), (3), (4) and (14), 87-21-015 (Order 172), § 230-04-190, filed 10/9/87. Statutory Authority: RCW 9.46.020(23), 81-03-045 (Order 105), § 230-04-190, filed 1/16/81. Statutory Authority: RCW 9.46.070(16), 78-06-066 (Order 85), § 230-04-190, filed 5/25/78. Statutory Authority: RCW 9.46.070(10), 78-05-043 (Order 84), § 230-04-190, filed 4/21/78; Order 78, § 230-04-190, filed 11/17/77; Order 51, § 230-04-190, filed 4/30/76; Order 42, § 230-04-190, filed 9/18/75; Order 23, § 230-04-190, filed 9/23/74; Order 5, § 230-04-190, filed 12/19/73.]



SEATTLE JAYCEE BINGO

RECEIVED

JUL 19 2006
GAMBLING COMMISSION
DIRECTOR'S OFFICE

July 17, 2006

Director Rick Day
Washington State Gambling Commission
PO Box 42400
Olympia, WA 98504-2400

Dear Director Day,

This letter is to request assistance from the Gambling Commission to re-instate a **rule** that was repealed in July **2000**. WAC **230-20-110 (1)(c)** under Prohibited practices (Attachment #1) had language that the IRS used to validate Technical Advice Memorandum (TAM) #19994**1043** (Attachment #2) which was issued on June 28, 1999. Without the wording **from** this WAC Rule, which clearly stated that an organization shall not fail to devote the entire net income of any gambling activity exclusively to the lawful purpose of the organization, it changes the ordinary and necessary business expenses deductible under section **162** of the IRS Code.

This TAM allowed Non Profit / Charitable Licensees to deduct the expenses **from** Pull Tabs at **100%**, now it is at 60% for Class 3 and above. **0%** for Class 1 & 2. Simply it gives us the same exemption as with Bingo with the IRS.

What I am asking of you is to pass this on to the department that can work on getting this rule reinstated and a letter from the **WSGC** to **the IRS** explaining that the repealing of the WAC was not with the intent to change how the organization should use the proceeds of their gambling income. Throughout the **manual** it states that proceeds to be used for its stated purpose or solely to advance the **purpose or dedicated solely to the purposes**. What they are looking for is that the net gambling income be used exclusively for the lawful purposes of the organization. The address for the IRS is: IRS, **Tax Exempt/Government** Entities, 915 Second Ave, Seattle, WA 98174.

I received the first **draft** of the rules simplification for the Charitable and Non Profit Rules while at the meeting last week and have found a need to make sure it makes it into the new rules too, as they have been trimmed back even more than they were. This rule would need to be under the General Rules sections because the Gambling Commission defines gambling proceeds as all moneys remaining from the operation of any gambling activity **after** payment of prizes and necessary expenses. We would need to be sure that it is not "bingo specific" since this, for IRS purposes, is to do with pull tab net income.

Here is a history of how all this came about:

We at Seattle Jaycee Bingo and members of the CNPV (Charitable Non Profit Voice) just learned about this tax deduction in **2003**. Members of the WCCGA (Washington Charitable & Civic Gaming Association) have been enjoying the deduction since 1999 (actually **1996** for the three year eligibility for **refund**). If you recall, the CNPV was trying to change the Pull Tab

called Row Call **from** a Pull Tab game to a Bingo game, as it required the bingo game to complete the game. The reason we wanted this change was due to the taxes we were paying to the IRS on our pull tabs and this game increased our revenue in pull tabs due to it's success. Commission staff convinced us that rule would remain the same and because it has instant winners it is a pull tab. A member of the WCCGA approached us and informed us that we no longer had to pay the Federal Income **Tax** on pull tabs and gave us the cover letter (Attachment #3). It took some time but we were able to finally get the **TAM** and get it to our **CPAs**. We requested our refunds for the three years and started filing as the TAM allowed.

During the month of July **2006** audits began from the IRS relative to filing **with** the TAM. Since those of us that are being currently audited are the ones who have recently started filing with this TAM we believe that this is what caused the IRS to reexamine the TAM. Upon doing this, they could not find WAC **230-12-110**. During our investigation I **was** able to locate the WAC referenced in the TAM in the **1997** Rules **Manual** under WAC **230-20-110**. In the **2001** Rules Manual it was listed under the "Disposition of sections formerly codified in this chapter" **with** Order 381. I contacted Cameron of the **WSGC** Financial Unit and asked about some **forms** we were unaware of for Federal requirement and also asked him what Order 381 was. He investigated it for me and informed me that the **rule was repealed** due to redundancy. I reviewed this with the auditing IRS Agent and he wrote up an explanation for me to give to our Board of Directors and I **asked** if I could also give this to the **WSGC**, he said that would be fine. (Attachment #4) I reported at the WSGC Meeting last week during the Study Session and am now following up with a letter.

We really need to have this rule back in the WAC rules. It affects all your Non Profit and Charitable Licensees. The **TAM** would become effective as soon as this rule is back in the Rules Manual. If retroactive to June 30,2000 then we could once again ask for the three year refund. If not, then we can take 60% for previous years and as of 2006 **100%** if it **can** go back into the **rules** ASAP. I am guessing that there would be a **120** day period to get a rule back in with the 31 day rule. I am not sure if the letter **from** the **WSGC** that I requested would make a difference with the IRS, but I certainly feel that it would be important to let them know that the rule change did not change the intent of how Washington State law requires the distribution of net gambling income be for lawful purposes.

Please feel free to contact me if you have any questions.

Sincerely,



Linda Smith
Manager

Attachments

Cc: Jill Griffin – President, Seattle Jaycees
Ronnie Strong - CNPV

JUL 19 2006

GAMBLING COMMISSION
DIRECTOR'S OFFICE

230-20-107

Bingo, Raffles and Amusement

230-20-110

230-20-059

[Statutory Authority: RCW 9.46.070 (1), (8) - (11), (14), (20). 96-13-067 (Order 293), § 230-20-107, filed 6/18/96, effective 7/19/96.]

WAC 230-20-108 Combination receipting method of **receipting** bingo income — Procedures. A system utilizing a combination of cash register receipting and another approved method of receipting may be used to receipt for bingo income. The following conditions and procedures apply to the use of the combination receipting method:

(1) This method must be **used** by Class F and above licensees receipting for bingo income from the following types of sales:

- (a) Disposable bingo card packets;
- (b) Disposable bingo card sheets from a set of bingo cards divided into subgroups;
- (c) Electronically generated bingo cards, if sales transactions and issuance of cards **are** not completed and documented **concurrently**; and
- (d) Bonus games as described in WAC 230-20-246

(8)(c);

(2) **All** requirements for cash register **receipting** set forth in WAC 230-20-104 **shall** be **followed**;

(3) If receipting for the sale of disposable bingo cards:

(a) All requirements of WAC **230-20-107** must be followed;

(b) Each packet of cards **from** a collation of bingo card **packets** or **each** sheet of cards from a set of bingo card **sheets** shall be consecutively issued at **each** individual sales point. **Each** packet, **sheet** of **cards**, or card which was not issued consecutively during a session, and whose audit number is lower **than** the highest audit number issued, shall be retained by the **licensee** for a period of not less **than** one year. **Provided** That if collations or sets **are** divided into subgroups as authorized by WAC 230-08-105(5), then packets or sheet of cards within each subgroup must be issued consecutively from each subgroup: *Provided further*, That packets or sheets of cards **required** to be **retained** by this subsection may be sold during the next bingo session that the **specific** collation or series is **used**; and

(c) The information **required** by WAC 230-08-105 must be **recorded** in the inventory **control** record; and

(d) The totals from the transaction record shall be **carried** forward to the "daily bingo **summary**" and **reconciled** to sales per the cash **register** record;

(4) **If** **receipting** for electronically generated bingo cards:

(a) All **requirements** of **electrically** generated bingo card receipting as set forth in WAC 230-20-106 must be followed; and

(b) The totals from the transaction record shall be **carried** forward to the "daily bingo **summary**" and **reconciled** to sales per the cash register record; and

(5) **If** receipting for bonus **games** as described in WAC 230-20-246 (8)(c):

(a) All **requirements** of ticket **receipting** as set forth in WAC 230-20-105 must be followed;

(b) **Tickets** **must** be **issued** **consecutively** from each **sales** point. Tickets at each sales point with audit numbers lower than the highest ticket issued at that sales point shall be retained as a part of the daily bingo **records** for a period of not less than one year; and

(c) **record** shall be **carried** forward to the **daily** bingo **summary**" and reconciled to sales per the cash **register** record.

[Statutory Authority: RCW 9.46.070(1), (8) - (11), (14), (20). 96-13-067 (Order 293), § 230-20-108, filed 6/18/96, effective 7/19/96.]

WAC 230-20-110 Prohibited practices. (1)(a) No charitable or nonprofit organizations shall operate or conduct any gambling activity on or within any **leased** premises if **rental** under such lease is to be paid, wholly or partly, on the basis of a percentage of the **receipts** or net profits derived from the operation of such activity,

(b) **Nor** shall the **rental** under such lease exceed the usual rental for such **premises** in the **same** locality,

(c) **Nor** shall any **such** organization fail to **devote** the **entire** net income of any gambling activity **exclusively** to the lawful purpose of the **organization**.

(2) No charitable or nonprofit organization shall hold or conduct any gambling activity if the compensation to any **person** taking part in the **management** or **operation** of **such** activity is based upon a **percentage** of the **receipts** or income derived **from** the operation of such **game**. The payment to such **persons** of **compensation** which is **other** than reasonable under the local prevailing wage scale for employment of a comparable **nature** shall **create** a presumption of a violation of this subsection.

[Statutory Authority: RCW 9.46.070 (1), (10) and (13). 80-03-059 (Order 98), § 230-20-110, filed 2/25/80; Order 5, § 230-20-110, filed 12/19/73, 1:25 p.m.]

WAC 230-20-111 Promotional activities—**Performances as gifts—Advance approval required.** In order to **preserve** the integrity and image of the charitable and nonprofit bingo industry, promotional activities including performances to **entertain** bingo patrons **shall** be **deemed** a promotional **gift** and subject to the monetary **restrictions** of WAC 230-20-242. For the purpose of **this** rule, a performance includes any show, comedy act, skit, play, dance, or similar activities, **whether** live or recorded, and **whether** or not consideration is paid or not paid to the performers of such activities.

(1) An organization that plans to offer any **performance** before, during, or **after** any bingo session shall present a **written** **detailed** outline of such and shall secure approval by the director of the commission prior to conducting the performance. The organization shall, in writing, **request** a **review** by the director at least sixty days in advance of the **scheduled** date of the performance.

(2) The director shall **review** the subject matter of the proposed performance and shall not approve any such performance which in the **director's** opinion is contrary to the public interest of **preserving** the integrity of charitable bingo.

(3) If the director denies a **request** to **conduct** a performance, the organization may request a review **by** the commission within thirty days of the decision. The **decision** of **the** commission shall be final.

[Statutory Authority: RCW 9.46.070. 94-07-084 (Order 250), § 230-20-111, filed 3/16/94, effective 4/16/94; 93-15-041 (Order 242), § 230-20-111, filed 7/14/93, effective 8/14/93.]

JUL 19 2006

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TAM 199941043

TAM 199941043, 1999 WL 821698 (IRS TAM)

GAMBLING COMMISSION
DIRECTOR'S OFFICE

this account to the organization's general account. You have indicated that all amounts claimed as section 162 deductions were subsequently paid out as functional expenses from the general account. It does not appear that you have made an allocation between the bingo and pull-tab receipts for these years.

The taxpayer is operating its gaming activities under rules set forth in the 1973 Gambling Act for the State of Washington. Under this Act, only bona fide charitable or nonprofit organizations may conduct gaming. These are defined in RCW 9.46.0209 as organizations having charitable, benevolent, eleemosynary, educational, civic, patriotic, political, social, fraternal, athletic or agricultural purposes when found by the **Commission** to be organized and operated solely for those purposes rather than for the purpose of carrying on gambling activities. Under this section, if contributions are not deductible or the organization is not exempt from federal income taxes, the organization is not considered a bona fide charitable or **nonprofit** organization. The Act also creates the Washington State Gambling Commission, Chapter 230-WAC, to implement the statutory scheme.

WAC 230-12-076 sets forth licensing requirements for organizations participating in gaming activities. Organizations are assigned a regulatory group based upon the authorized gambling receipts as follows:

- (1) Group 1 - gambling activities with combined annual gross receipts up to \$300,000.
- (2) Group 2 - **gambling** activities with combined annual gross receipts up to \$1,000,000.
- (3) Group 3 - gambling activities with combined annual gross receipts up to **\$3,000,000**.
- (4) Group 4 - gambling activities with combined annual gross receipts up to \$5,000,000.
- (5) **Group 5** - gambling activities with combined annual gross receipts that exceed \$5,000,000.

WAC 230-08-255 states that as a requirement of obtaining a **gambling** license and to maintain it, a charitable or nonprofit organization must demonstrate that it has made significant progress toward meeting its stated purposes during the period under review. "Significant progress" means that an organization has complied with requirements set forth in its by-laws and charter; has actively engaged in providing services to the public or its members during the entire period under consideration; and the services provided directly relate to the stated purposes of the organization. Such activities are deemed to be significant when an **organization** uses a substantial portion of its resources, including net gambling income, for providing such services. Organization in Groups 3, 4, and 5, are subject to the following additional requirements:

- (1) Elections to select officers must be held at least once every two years;
- (2) A general membership meeting must be held at least once every two years;
- (3) **At least 60%** of the net gambling income earned in the most recently completed fiscal year must be used in the same period as functional expenses to provide services to members or the public; **[There are several exceptions to the timing of the required payout.]**

(4) No more than 35% of the functional expenses may be spent for supporting service expenses. If more than 50% of the functional expenses are provided through indirect methods such as contributions, scholarships, services, then not more than 20% of functional expenses can be spent for supporting services.

Functional expenses are essentially program service expenses. [WAC 230-02- 1621
Supporting service expenses are administrative costs. [WAC 230-02-279]

WAC 230-12-110 provides that an organization shall not "fail to devote the entire net income of any gambling activity exclusively to the lawful purpose of the organization."

WAC **230-12-280** provides further that an organization's gambling license may be voided for failure to comply with these **requirements**.

ISSUES:

Based on these facts you have asked the following questions:

1. Are the requirements under the Revised Code of Washington State (RCW) and the Washington Administrative Code (WAC) that require an organization to make significant progress toward meeting its stated purpose as a condition for a gaming license so broad that they do not constitute a requirement of lawful purpose expenditures?
2. Is the distribution of net gambling income by the taxpayer in accordance with Washington law, subject to the limitations of section 512(b)(10) of the Code as a charitable contribution under section 170, or are the payments deductible under section 162 as ordinary and necessary business expenses?
3. If the payments are deductible under section 162, is the excess of the payments over sixty percent subject to the charitable limitation under section 170?
4. If a licensee is a Group I or II licensee, do the requirements of the RCW and WAC constitute a lawful purpose expenditure?
5. Is a licensee that is exempt under section 501(c)(3) or (4) entitled to a **lawful** purpose expenditure deduction **under** section 162, even though the functional expenses required under the RCW and WAC for a charitable gaming license are not charitable payments as defined in section 170?
6. Are **amounts** relating to bingo proceeds (as defined at section 513(f)(2) of the Code), as distinguished from pull-tabs, that are transferred from the gambling account to the general account and ultimately expended for functional services, **deductible** under either section 162 or 170 of the Code.

LAW:

Section 511 of the Code **imposes** a tax on the unrelated business taxable income of an organization described in section 501(c)(3) of the Code, that is derived from any unrelated trade or business regularly carried on by it.

Section 512(a)(1) of the Code defines the **term** "unrelated business taxable income" as the gross income derived by any organization from any unrelated trade or business regularly carried on by it, less the allowable deductions which are directly connected with the carrying on of such trade or business, both computed with the modifications provided in subsection (b).

Section 512(b)(10) of the Code permits organizations subject to the section 511 tax the deductions allowed by section 170 but not to exceed 10% of the unrelated business taxable income computed without the benefit of this paragraph.

Section **162(a)** of the Code allows a deduction for all the ordinary and necessary

expenses paid or incurred during the tax year in carrying on any trade or business. Section 1.162-15(a) of the Income Tax Regulations, provides that no deduction is allowable for a charitable contribution or gift by a corporation if any part of that contribution is deductible under section 170.

Section 513(f) of the Code states that the term "unrelated trade or business" does not include any trade or business which consists of conducting bingo games. "Bingo game" is defined in section 513(f)(2) to mean any game of bingo where wagers are placed, the winners are determined and the distribution of prizes or other property is made in the presence of all persons placing wagers in such game.

In South End Italian Independent Club, Inc. v. Commissioner, 87 T.C. No 11 (7/22/86), the Tax Court held that a section 501(c)(7) social club that distributes its net proceeds from the operation of beano games in accordance with Massachusetts law, was not subject to the limitations imposed by section 512(b)(10) because the proceeds were ordinary and necessary business expenses deductible under section 162 rather than charitable contributions subject to section 170. The Massachusetts gaming law required that the entire net proceeds of the beano games be used for charitable purposes and not be distributed to the members of the organization. The court decision did not rest on the purpose to which the net proceeds were dedicated. The court was persuaded that because the payments were compelled as a condition for maintaining a gaming license that the payout was not a voluntary charitable contribution, it was an ordinary and necessary business expense and deductible in full.

Similarly, in Women of the Motion Picture Industry, et al v. Commissioner, T.C. Memo 1997-518, the Tax Court held that the Texas gaming statute required that the net proceeds of both bingo and "instant bingo", a form of pull-tab, be paid out for lawful purposes within specified time limits as a condition of maintaining a gaming license. Although the statute permitted leeway as to the timing of the payout, all funds had to eventually be paid out for charitable purposes or the organization risked revocation of its gaming license. The court concluded that the payments made for lawful purposes under this statute were ordinary and necessary business expenses deductible under section 162. In this case, the amount of income and expenses attributable to the instant bingo activities was stipulated by the parties. No deductions were allowed for expenses attributable to the section 513(f) bingo.

DISCUSSION:

All of the issues raised hinge on whether the Washington State law requires that the net proceeds of the gaming activity be used for lawful purposes under the statute as a requirement for obtaining and maintaining a gaming license. To make this determination, an examination of the 1973 Gambling Act for the State of Washington, as implemented by the Washington State Gambling Commission in Chapter 230-WAC, is necessary.

WAC 230-12-110 states clearly that an organization shall not fail to devote the entire net income of any gambling activity exclusively to the lawful purpose of the organization. An organization's gambling license is subject to revocation under WAC 230-12-280 if it fails to use any part of the net gaming income for lawful purposes.

WAC 230-12-076 and WAC 230-08-255 impose additional requirements for organizations holding gambling licenses. These focus on the organization's operational success in making "significant progress" towards the goals that are the basis for its tax exempt status. Organizations that hold Group 3, 4, or 5 gaming

licenses are subject to additional requirements regarding the timing of distributions to be made and limitations on certain administrative expenses.

The Washington State statutory scheme is similar to both the Texas statute discussed in *Women of the Motion Picture Industry, et al v. Commissioner*, supra, and the Massachusetts statute discussed in *South End Italian Independent Club, Inc. v. Commissioner*, supra. It is the fact that the state law requires that funds be expended in a certain manner as a condition of maintaining a license, and the fact of possible license revocation if the funds are not expended in that manner, that renders these payments ordinary and necessary business expenses deductible under section 162 of the Code. They are not charitable contributions under section 170 as they are not "**voluntary**," they are mandated as a condition of continued operations. This is not changed by the fact that the State may impose further restrictions on the timing and distribution of the funds.

An organization is not entitled to a deduction under section 162 until an expenditure is made. The court in *Women of the Motion Picture Industry, et al v. Commissioner*, supra, noted that a transfer of funds from the gaming account to the organization's general account is not an expenditure. When the funds are spent by the organization for a lawful purpose under the statute, however, the expense is deductible under section 162. Program service expenditures are lawful purpose expenditures under the Washington State statutory scheme and deductible from the gaming receipts at the time the funds are spent.

The question of deductibility only arises in the context of unrelated business taxable income. An exempt organization is not taxed on its **income** from exempt activities such as bingo defined in section **513(f)**. This is considered support from a related activity under section 509(a)(2). Accordingly, an organization must allocate its gambling income between related and unrelated sources even when permitted by the state to **commingle** the funds in one restricted gaming account. Only expenditures that are directly connected to the unrelated business income portion may be deducted under section 162. This issue was present in *Women of the Motion Picture Industry, et al v. Commissioner*, supra. The parties had stipulated the amount of income and expenses attributable to the instant bingo activities and no deductions were allowed for expenses attributable to the section **513(f)** bingo.

CONCLUSIONS:

1. The requirements under the Revised Code of Washington State and the Washington Administrative Code that require an organization to make significant progress toward meeting its exempt purposes as a condition for a gaming license are not too broad to constitute a lawful purpose expenditure. The purposes of an organization exempt under section 501(c)(3) of the Code are, by definition, charitable. This law is requiring licensed organizations to spend the gambling proceeds for charitable purposes in addition to continuing an ongoing charitable program conducted with proceeds generated from sources that are not unrelated business taxable income. RCW 9.46.0209 specifically requires that an organization not be operated solely for the purpose of carrying on gambling activities and that it be an organization to which contributions are deductible or exempt from federal income taxes.. WAC 230-08-255 also requires an independent charitable program as a condition for holding a gambling license. Only then may the gaming proceeds be spent for additional program services.

2. Washington State law requires the distribution of net gambling income for lawful **purposes** as a **requirement** of obtaining and maintaining a gaming license. Expenses incurred to maintain the gaming license are ordinary and necessary business expenses deductible under section 162 of the Code. Thus, the limitations

of section 512(b)(10) of the Code do not apply.

3. WAC 230-12-110 requires that the entire net gambling proceeds be used for lawful purposes. The additional requirement of WAC 230-08-255 that certain licensees spend 60% of the net gaming income within the current year does not change the requirement that 100% of the net gambling proceeds be used for lawful Purposes though it may change the timing of the deduction. A deduction can only be taken in the year the funds are actually spent.

4. RCW 9.46.0209 and WAC 230-12-110 apply to all gambling licensees.

5. A licensee exempt under section 501(c)(3) or 501(c)(4) is entitled to a lawful Purpose expenditure deduction under section 162 for expenses incurred as a condition of holding a gambling license. Lawful purposes are loosely defined in RCW 9.46.0209. The list of permissible purposes for which gaming income may be spent must be tempered by the further requirement that the organization be exempt from federal tax and use the funds in furtherance of its own stated purposes whether as an adjunct to its own program or by a program of targeted grants. A 501(c)(3) or 501(c)(4) organization incurring expenditures for non-exempt purposes jeopardizes its exempt status, whether those funds are generated by an unrelated trade or business or not.

6. Expenditures from 513(f) bingo proceeds are not deductible. An allocation must be made between the 513(f) bingo and the pull-tab income in the gaming account. If there are no records on which to base an allocation, all the funds may be considered from an unrelated trade or business. Expenditures from bingo proceeds that are not described in section 513(f) that are made as a condition of holding a gambling license are deductible under section 162 as ordinary and necessary business expenditures.

This document may not be used or cited as precedent. Section 6110(j)(3) of the Internal Revenue Code.

END OF DOCUMENT

WCCGA**RECEIVED**JUL 19 2006
GAMBLING COMMISSION
DIRECTOR'S OFFICE

July 27, 1999

All WCCGA Members:

The enclosed Technical Advice Memorandum issued by the IRS on June 28, 1999 pertaining to Unrelated Business Income Tax (UBIT) on net profit from the sale of pull-tabs is furnished for your information and implementation. The IRS has agreed with our position and the document is self-explanatory. The bottom line is that this is a great achievement for our association and will result in millions of dollars being saved by non-profits that sell pull-tabs. Also, you will be eligible to get a refund for the last three years you paid UBIT on pull tab income.

The CPA firm who handled this project will be meeting with Mr. John Johns of the IRS in the near future to discuss their position of whether we will be required to maintain pull tab income as separate funds in order to account for the expenditures. They will also discuss the years that will apply for net operating losses (NOL). The final outcome will be sent to all members immediately after the determination is made.

If your accounting firm should have any questions they may contact Dick Greenwood or Chris Kindness of Greenwood, Ohlund & Company at (206) 782-1767.

Sincerely,


John R. Beattie
Project Person

cc:

Ben Bishop, Director - WSQC
Dennis McLaughlin, Attorney at LawWASHINGTON
CHARITABLE & CIVIC
GAMING ASSOCIATION7012 210th S.W.
Moundlake Terrace, WA 98043

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JUL 19 2006

**GAMBLING COMMISSION
DIRECTOR'S OFFICE**

Form 990-T Issue:

The minimum legal requirement in the State of Washington is to expend 60% of the net gaming income for the purposes of the organization. No more than an additional 35% may be expended for administrative expenses.

Due to the minimum requirement, only 60% of the net gaming income, which must be allocated due to the existence of income from bingo, may be subtracted automatically as an expense from the **gross** receipts on the Form 990-T.

There was a provision that permitted the entire net gaming income to be expensed on the **Form 990-T**, which was repealed on July 1, 2000. The net gaming income was to be "**exclusively** for the lawful purposes" of the organization. (**WAS** 230-20-110) If this provision was to be re-enacted, with the **effect retroactive** to June 30, 2000, then the net income could once again be expensed in its entirety.

The key to this argument is what **are** the minimum necessary and ordinary expenses (**Section** 162 of the Internal Revenue Code) required to maintain the organization's gaming license. Under Washington State **law**, **the** amount required is 60%.

Potential benefit: elimination of tax on pull-tabs, resulting in **\$15K** of savings

Amendatory Section:

WAC 230-40-855 Acceptance of tips from patrons for house-banked activities.

Licensees may allow selected employees to accept tips from patrons. If allowed, tips shall be controlled in a manner to ensure they are only received by authorized persons, properly accounted for, and maintained separate from all other gaming funds. The following restrictions and procedures apply:

(1) No employee directly concerned with management, supervision, accounting, security, or surveillance shall solicit, accept or otherwise share any tip originating from any player or patron: Provided, That cage cashiers shall be allowed to accept tips.

(2) Each licensee shall establish procedures necessary to ensure that the acceptance of tips by dealers is observed by the floor supervisor and surveillance. Procedures shall include an overt display of tips received, such as tapping the table with the tip prior to placing it in the tip container.

(3) All tips must be dropped into a locked tip container which prevents the removal of chips except by unlocking. Tip containers must remain under camera coverage of the closed circuit television system at all times.

(4) ~~(3)~~ Tips to the cashier shall be deposited directly into the tip container by the patron. Cashier tip containers shall be located outside the cage enclosure.

(5) ~~(4)~~ Tips received shall be retained by employees or pooled among employees in such manner as determined by the licensee as approved in the internal controls.

(6) ~~(5)~~ Licensees shall establish and implement procedures for the proper accounting of tips received by authorized card room employees. The procedures shall be fully documented in the licensee's internal controls and shall describe in detail any methods used to allocate tips. ((Accounting and recording of tip income shall be in sufficient detail to meet federal income tax requirements.))

(7) Procedures for employees who retain their own tips must include at least the following:
(a) All tips received by licensed card room employees must be redeemed under surveillance at the cashier's cage during the shift in which they were received; and
(b) The cage cashiers must count the tips collected and record at least the following information:
(i) Name, position and employee number of person that received tips; and
(ii) Amount of tips redeemed; and
(iii) Time and date tips were redeemed at cashier's cage; and
(iv) Signature of person that received the tips; and
(v) Signature of person counting and recording tip; and
(c) Tips received by a cage cashier must be counted and verified by the shift/floor supervisor and include the information listed in subsection (b) above.

(8) Procedures for employees that pool tips must include at least the following:

- (a) All pooled tips must be redeemed under surveillance at the cashier's cage, count room or a gaming table; and
- (b) Time and date tips were counted; and
- (c) Amount of tips counted; and
- (d) Name, employee number, and signature of at least two licensed card room employees counting the tips; and
- (e) The name, employee number and amount of tips allocated to each employee receiving the tips.

[Statutory Authority: RCW [9.46.070](#). 00-09-052 (Order 383), § 230-40-855, filed 4/14/00, effective 5/15/00.]

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0056.1/07

ATTY/TYPIST: KB:mos

BRIEF DESCRIPTION:Allowing the exclusion or ejection of certain people
from licensed gambling establishments.

AN ACT Relating to the exclusion or ejection of certain persons from licensed gambling establishments; adding a new section to chapter 9.46 RCW; and prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec. 1. A new section is added to chapter 9.46 RCW to read as follows:

(1) The legislature declares that the exclusion or ejection of certain persons from the gambling premises of establishments that conduct licensed gambling activities is necessary to carry out the policies of this chapter and to effectively maintain the strict regulation of gambling.

(2) The commission may, by rule, provide for the establishment of a list of persons who are to be excluded or ejected from a licensed establishment's gambling premises. The list may include any person whose presence on the gambling premises is determined by the commission to pose a threat to the interests of this state, to licensed gambling, or both.

(3) The commission's rules must define the standards for exclusion and must include standards relating to persons:

(a) Who are career or professional offenders as defined by commission rules;

(b) Who have been convicted of a gambling-related criminal offense under the laws of any state or of the United States;

(c) Who have violated or conspired to violate this chapter;

(d) Who have been barred under similar involuntary exclusion laws or rules of any other state or nation that regulates gambling.

(4) Race, color, creed, national origin or ancestry, gender, or other discriminatory reasons shall not be used to place any person upon the list of exclusion or ejection.

(5) The commission may impose sanctions upon a licensee if the licensee knowingly fails to exclude or eject from its gambling premises any person placed by the commission on the list of persons to be excluded or ejected.

(6) Any list compiled by the commission of persons to be excluded or ejected shall not be deemed an all-inclusive list. Licensees must keep from their gambling premises persons known to them to fall within the standards defined under subsection (3) of this section.

(7) When the commission places the name of a person on a list under this section, the commission must serve notice to the person by personal service, certified mail at the last known address of the person, by publication daily for one week in a newspaper of general circulation within a hundred mile radius of the person's last known address, or by publication on the commission's official internet website. Within thirty days after service of the notification, the person named for exclusion or ejection may request a hearing before an administrative law judge. The commission has the affirmative obligation to demonstrate by a preponderance of the evidence that the person named for exclusion or ejection satisfies the criteria for exclusion established by this section and the commission's rules.

(8) Failure to request a hearing within thirty days after service precludes a person from having an administrative hearing.

(9) If, upon completion of the hearing for exclusion or ejection, an administrative law judge determines that the person named does not satisfy the criteria for exclusion established by this section and the commission's rules, the administrative law judge must issue an initial order denying the listing.

(10) If, upon completion of a hearing for exclusion or ejection, an administrative law judge determines that placement of the name of

the person on the exclusion list is appropriate, the administrative law judge must make and enter an initial order to that effect. The order is subject to review by the commission.

(11) This section does not limit the right of a licensee to exercise its common law right to exclude or eject permanently from its premises, any person who disrupts the operations of its premises, threatens the security of its premises or its occupants, or is disorderly or intoxicated.

(12) A person on the list of excluded persons shall not collect any winnings or recover any losses arising as a result of any licensed gambling activity. Additionally, any money or thing of value which has been obtained by, or is owed to, any person placed on the list of excluded persons must be forfeited by order of the commission, following notice to the person and opportunity to be heard. Any forfeited amounts must be deposited into the gambling revolving fund.

(13) Any person on the list of excluded persons who enters any gambling establishment is guilty of a gross misdemeanor and subject to the penalty provided in RCW **9A.20.021**.

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0055.1/07

ATTY/TYPIST: KB:ads

BRIEF DESCRIPTION: Modifying gambling commission powers and duties.

AN ACT Relating to the powers and duties of the gambling commission; and amending RCW 9.46.070.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 9.46.070 and 2002 c 119 s 1 are each amended to read as follows:

The commission (~~((shall have))~~) has the following powers and duties:

(1) To authorize and issue licenses for a period not to exceed one year to bona fide charitable or nonprofit organizations approved by the commission meeting the requirements of this chapter and any commission rules (~~((and regulations adopted pursuant thereto))~~) permitting (~~((said))~~) the organizations to conduct bingo games, raffles, amusement games, and social card games, to utilize punch boards and pull-tabs in accordance with the provisions of this chapter and any commission rules (~~((and regulations adopted pursuant thereto))~~) and to revoke or suspend (~~((said))~~) licenses for violation of any provisions of this chapter or any commission rules (~~((2nd regulations adopted pursuant thereto: PROVIDED, That))~~). However, the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued(~~((: PROVIDED FURTHER, That))~~), and the commission

1 or director shall not issue, deny, suspend, or revoke any license
2 because of considerations of race, sex, creed, color, or national
3 origin(~~(: AND PROVIDED FURTHER, That)~~). The commission may authorize
4 the director to temporarily issue or suspend licenses subject to final
5 action by the commission;

6 (2) To authorize and issue licenses for a period not to exceed one
7 year to any person, association, or organization operating a business
8 primarily engaged in the selling of items of food or drink for
9 consumption on the premises, approved by the commission meeting the
10 requirements of this chapter and any commission rules (~~(and regulations~~
11 ~~adopted pursuant thereto)~~) permitting (~~(said)~~) the person, association,
12 or organization to utilize punch boards and pull-tabs and to conduct
13 social card games as a commercial stimulant in accordance with the
14 provisions of this chapter and any commission rules (~~(and regulations~~
15 ~~adopted pursuant thereto)~~) and to revoke or suspend (~~(said)~~) licenses
16 for violation of any provisions of this chapter and any commission
17 rules (~~(and regulations adopted pursuant thereto: PROVIDED, That)~~).
18 However, the commission shall not deny a license to an otherwise
19 qualified applicant in an effort to limit the number of licenses to be
20 issued(~~(: PROVIDED FURTHER, That)~~), and the commission may authorize
21 the director to temporarily issue or suspend licenses subject to final
22 action by the commission;

23 (3) To authorize and issue licenses for a period not to exceed one
24 year to any person, association, or organization approved by the
25 commission meeting the requirements of this chapter and meeting the
26 requirements of any commission rules (~~(and regulations adopted by the~~
27 ~~commission pursuant to this chapter as now or hereafter amended)~~),
28 permitting (~~(said)~~) the person, association, or organization to conduct
29 or operate amusement games in such manner and at such locations as the
30 commission may determine. However, the commission may authorize the
31 director to temporarily issue or suspend licenses subject to final
32 action by the commission;

33 (4) To authorize, require, and issue, for a period not to exceed
34 one year, such licenses as the commission may by rule provide, to any
35 person, association, or organization to engage in the selling,
36 distributing, or otherwise supplying or in the manufacturing of devices
37 for use within this state for those activities authorized by this

chapter. However, the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(5) To establish a schedule of annual license fees for carrying on specific gambling activities upon the premises, and for such other activities as may be licensed by the commission, which fees shall provide to the commission not less than an amount of money adequate to cover all costs incurred by the commission relative to licensing under this chapter and the enforcement by the commission of the provisions of this chapter and any commission rules (~~(and regulations adopted pursuant thereto: PROVIDED, That)~~). However, all licensing fees shall be submitted with an application (~~(therefor)~~) and such portion of said fee as the commission may determine, based upon its cost of processing and investigation, shall be retained by the commission upon the withdrawal or denial of any such license application as its reasonable expense for processing the application and investigation into the granting thereof(~~(: PROVIDED FURTHER, That)~~). If in a particular case the basic license fee established by the commission for a particular class of license is less than the commission's actual expenses to investigate that particular application, the commission may at any time charge to that applicant (~~(such)~~) additional fees (~~(as are)~~) necessary to pay the commission for those costs. The commission may decline to proceed with its investigation and no license shall be issued until the commission has been fully paid (~~(therefor)~~) by the applicant(~~(: AND PROVIDED FURTHER, That)~~). The commission may establish fees for the furnishing by it to licensees of identification stamps to be affixed to such devices and equipment as required by the commission and for such other special services or programs required or offered by the commission, the amount of each of these fees to be not less than is adequate to offset the cost to the commission of the stamps and of administering their dispersal to licensees or the cost of administering such other special services, requirements or programs;

(6) To prescribe the manner and method of payment of taxes, fees and penalties to be paid to or collected by the commission;

(7) To require that applications for all licenses contain such information as may be required by the commission(~~(: PROVIDED, That)~~). However, all persons (a) having a managerial or ownership interest in any gambling activity, or the building in which any gambling activity

1 occurs, or the equipment to be used for any gambling activity, or (b)
2 participating as an employee in the operation of any gambling activity,
3 shall be listed on the application for the license and the applicant
4 shall certify on the application, under oath, that the persons named on
5 the application are all of the persons known to have an interest in any
6 gambling activity, building, or equipment by the person making ~~((such))~~
7 the application~~((—PROVIDED FURTHER, That))~~. The commission shall
8 require fingerprinting and national criminal history background checks
9 on any persons seeking licenses, certifications, or permits under this
10 chapter or of any person holding an interest in any gambling activity,
11 building, or equipment to be used ~~((therefor))~~ for any authorized
12 gambling activity, or of any person participating as an employee in the
13 operation of any gambling activity. All national criminal history
14 background checks shall be conducted using fingerprints submitted to
15 the United States department of justice-federal bureau of
16 investigation. The commission must establish rules to delineate which
17 persons named on the application are subject to national criminal
18 history background checks. In identifying these persons, the
19 commission must take into consideration the nature, character, size,
20 and scope of the gambling activities requested by the persons making
21 such applications;

22 (8) To require that any license holder maintain records as directed
23 by the commission and submit such reports as the commission may deem
24 necessary;

25 (9) To require that all income from bingo games, raffles, and
26 amusement games be recorded and reported as established by rule ~~((or~~
27 ~~regulation))~~ of the commission to the extent deemed necessary by
28 considering the scope and character of the gambling activity in such a
29 manner that will disclose gross income from any gambling activity,
30 amounts received from each player, the nature and value of prizes, and
31 the fact of distributions of such prizes to the winners thereof;

32 (10) To regulate and establish maximum limitations on income
33 derived from bingo. In establishing limitations pursuant to this
34 subsection the commission shall take into account ~~((+i+))~~ **(a)** the
35 nature, character, and scope of the activities of the licensee;
36 ~~((+ii+))~~ **(b)** the source of all other income of the licensee; and
37 ~~((+iii+))~~ **(c)** the percentage or extent to which income derived from

bingo is used for charitable, as distinguished from nonprofit, purposes. However, the commission's powers and duties granted by this subsection are discretionary and not mandatory;

(11) To regulate and establish the type and scope of and manner of conducting the gambling activities authorized by this chapter, including but not limited to, the extent of wager, money, or other thing of value which may be wagered or contributed or won by a player in any such activities;

(12) To regulate the collection of and the accounting for the fee which may be imposed by an organization, corporation, or person licensed to conduct a social card game on a person desiring to become a player in a social card game in accordance with RCW 9.46.0282;

(1.3) To cooperate with and secure the cooperation of county, city, and other local or state agencies in investigating any matter within the scope of its duties and responsibilities;

(14) In accordance with RCW 9.46.080, to adopt ~~((such))~~ rules ~~((and regulations as are deemed))~~ necessary to carry out ~~((the purposes and provisions of))~~ this chapter. All rules ~~((and regulations shall))~~ must be adopted pursuant to the administrative procedure act, chapter 34.05 RCW;

(15) To set forth for the perusal of counties, city-counties, cities and towns, model ordinances by which any legislative authority thereof may enter into the taxing of any gambling activity authorized by this chapter;

(16) (a) To establish and regulate a maximum limit on salaries or wages which may be paid to persons employed in connection with activities conducted by bona fide charitable or nonprofit organizations and authorized by this chapter, where payment of such persons is allowed, and to regulate and establish maximum limits for other expenses in connection with such authorized activities, including but not limited to rent or lease payments. However, the commissioner's powers and duties granted by this subsection are discretionary and not mandatory.

(b) In establishing these maximum limits the commission shall take into account the amount of income received, or expected to be received, from the class of activities to which the limits will apply and the amount of money the games could generate for authorized charitable or nonprofit purposes absent such expenses. The commission may also take

into account, in its discretion, other factors, including but not limited to, the local prevailing wage scale and whether charitable purposes are benefited by the activities;

(17) To authorize, require, and issue for a period not to exceed one year (~~such~~) licenses or permits, for which the commission may by rule provide, to any person to work for any operator of any gambling activity authorized by this chapter in connection with that activity, or any manufacturer, supplier, or distributor of devices for those activities in connection with (~~such~~) the business. However, the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission. The commission shall not require that persons working solely as volunteers in an authorized activity conducted by a bona fide charitable or bona fide nonprofit organization, who receive no compensation of any kind for any purpose from that organization, and who have no managerial or supervisory responsibility in connection with that activity, be licensed to do such work. The commission may require that licensees employing (~~such~~) unlicensed volunteers submit to the commission periodically a list of the names, addresses, and dates of birth of the volunteers. If any volunteer is not approved by the commission, the commission may require that the licensee not allow that person to work in connection with the licensed activity;

(13) To publish and make available at the office of the commission or elsewhere to anyone requesting it a list of the commission licensees, including the name, address, type of license, and license number of each licensee;

(19) To establish guidelines for determining what constitutes active membership in bona fide nonprofit or charitable organizations for the purposes of this chapter; (~~and~~)

(23) To renew the license of every person who applies for renewal within six months after being honorably discharged from service in the armed forces of the United States upon payment of the renewal fee applicable to the license period, if there is no cause for denial, suspension, or revocation of the license. Licenses that are valid at the time a licensee enters service in the armed forces remain valid as long as such service continues unless the license is suspended, revoked, or denied for cause under commission rule or law; and

1 (21) To perform all other matters and things necessary to carry out
2 the purposes and provisions of this chapter.

--- END ---

DRAFT

AN ACT Relating to the minimum age for gambling and penalties for underage gambling; adding a new section to chapter 9.46 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** A new section is added to chapter 9.46 RCW to read as follows:

RCW 9.46.XXX

Minimum gambling age --- Gambling by persons under eighteen --- Civil infraction – Jurisdiction.

(1) It is unlawful for any person under the age of eighteen to play punchboards, pull-tabs, or card games, or to participate in fund-raising events. Persons under the age of eighteen may play bingo and amusement game activities only as provided by Commission rules.

(2) A person under the age of eighteen who engages in, or attempts to engage in, gambling activities allowed by this chapter commits a class 2 civil infraction under chapter 7.80 RCW and is subject to a fine as set out in chapter 7.80 RCW, up to four hours of community restitution, and any court imposed costs. This section does not apply if a person under the age of eighteen, with parental authorization, is participating in an underage gambling investigation as part of a gambling commission or law enforcement agency activity.

(3) Municipal and district courts within the state have jurisdiction for enforcement of this section, subject to the provisions of RCW 13.04.030.

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0057.1/07

ATTY/TYPIST: KB: seg

BRIEF DESCRIPTION: Prohibiting minors from participating in
gambling activities.

1 AN ACT Relating to the minimum age for gambling; adding a new
2 section to chapter 9.46 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.46 RCW
5 to read as follows:

6 (1) No person under the age of eighteen may engage in punchboards,
7 pull-tabs, social card games, or fund-raising event activities.
8 Persons under the age of eighteen may engage in bingo and amusement
9 game activities only as provided in WAC 230-12-027.

10 (2) A person under the age of eighteen who engages in, or attempts
11 to engage in, gambling activities allowed by this chapter commits a
12 class 3 civil infraction under chapter 7.80 RCW and is subject to a
13 fine under RCW 7.80.120 or up to four hours of community restitution,
14 or both. This subsection does not apply if a person under the age of
15 eighteen, with parental authorization, is participating in an underage
16 gambling investigation as part of a gambling commission or law
17 enforcement agency activity.

18 (3) Municipal and district courts within the state have

1 jurisdiction for enforcement of this section, subject to the provisions
2 of RCW 13.04.030.

--- END ---



Combating Underage Gambling

As you may know, we have been conducting underage compliance visits for about three years. More than 40% of the visits resulted in a violation because a minor was allowed to enter a card room and gamble. A better job needs to be done to keep minors out of card rooms.

There is a resource to help you that is available right now through the Liquor Control Board (LCB). To assist you in keeping minors out of your card room, we recommend that licensees send all employees through the LCB's driver's license identification (I.D.) training. The LCB offers this training twice a month on a voluntary basis. If you attend, make sure you sign in so there is a

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House-Banked Card Rooms Proposed Rule Changes that Affect You!

♣ **Two Part Payment Plan for License Fees No Longer Allowed**
4 **Increasing Tip Reporting for Card Room Employees** *See page 5 for details!*

Internet Gambling Update

So much has been written about the recent Internet gambling bill, we wanted to respond with some of the facts. Hopefully, these facts will help when you hear people talking about Internet gambling.

Internet gambling currently is, and always has been, illegal under Washington law. Online gambling is also illegal under federal law (Federal Wire Wager Act (18 U.S.C. § 1084 (1994))).

Why was the Law Passed?

In response to the growth of illegal Internet gambling activities, the Legislature unmistakably clarified and strengthened Washington's existing statutory prohibition against Internet gambling. The specific term "Internet" was added to the law and one of the possible penalties for its violation was increased, providing law enforcement with additional tools to pursue those profiting from or supporting illegal Internet gambling.



Commissioners
John Ellis, Chair
Judge Janice Niemi (Ret.), Vice Chair
Alan Parker
Peggy Ann Bierbaum
One vacant Commissioner position

Ex-Officio Members
Senator Margarita Prentice
Senator Jerome Delvin
Representative Alex Wood
Representative John Serben

1

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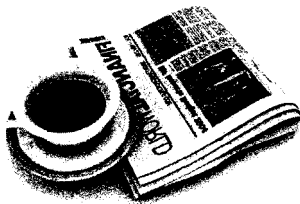
- 2 Rules Simplification Project Update
- 2 Advice from an Undercover Agent
- 3 Manufacturers - Agency Contacts
- 4 Rule Changes Under Review
- 8 Late Activity Reports
- 9 Administrative Case Update
- 13 Adopted Rule Changes

Internet Gambling continued

(Continued from page 6)

Advertising.

Although, radio, television and newspapers that publish "gambling information" (RCW 9.46.0245) are exempt from the new law, advertising for Internet gambling is generally illegal. In most instances, advertising would be a gross misdemeanor under the professional gambling statute (RCW 9.46.222).



Writing general information about Internet gambling is okay. However, providing links to illegal sites is considered soliciting or inducing persons to participate in an illegal gambling activity and is a violation of the professional gambling statute (RCW 9.46.0269). The courts have determined that there is not First Amendment protection from advertising illegal activities.

Federal Enforcement Actions.

In 2003, the United States Department of Justice (DOJ) mounted a coordinated challenge to the advertising of Internet gambling sites. A DOJ official sent a letter to the National Association of Broadcasters stating that media businesses likely were "aiding and abetting" violations of federal law when they circulated such advertising.

In 2004, the DOJ seized from Discovery Communications \$3.2 million that ParadisePoker.com had prepaid for future advertising of its Internet gambling site.

In May 2006, the DOJ announced the indictment of two individuals and the corporations through which they operated their illegal, off-shore gambling websites. Those individuals and entities are also charged with money laundering over \$250 million worth of illegal Internet gambling wagers. The indicted individuals are currently federal fugitives.

Horse Racing.

A few years ago, account wagering for horse racing was authorized by the Legislature. This is a separate law from the Internet gambling prohibition. Currently, the Horse Racing Commission has three licensed vendors that provide account wagering. For more information, call the Horse Racing Commission at (360) 459-6462.

Gambling Defined.

Gambling involves three elements: Prize, Consideration and Chance. If one of these elements is removed, it is no longer a gambling activity. For example, if you pay a fee to play a game of chance (such as poker, blackjack, bingo, roulette, slots, etc.) for a prize, it is a gambling activity. However, if you play these games for free (no entry fee or wager) it is not gambling and okay to play on the Internet.

Underage Gambling continued

(Continued from page 1)

record that you attended the training. In about two months, the LCB will have a training CD available for viewing. Please contact your local LCB office for more information.

With proper training, employees will be better prepared to deal with minors trying to enter a card room and gamble. Other items that may reduce the opportunity for minors to enter card rooms are:

- Posting signs requiring staff to check for proper I.D.
- Making sure there is adequate staffing to check patron's I.D.
- Posting a security person at the door
- Having a waitress, dealer, and floor supervisor check for proper I.D.
- Updating internal controls and training staff on what is expected of them

Some card rooms have asked us to look at "mitigating circumstances" when a second violation has occurred. The current fine structure is:

First Violation: \$300 Notice of Violation and Settlement

Second Violation: Five day suspension; four days deferred and one day vacated by paying a fine of 75% of the net gambling receipts for one day

If you receive a second violation in one year, we will look at what you have done to try and keep minors from gambling at your card room. If you have taken steps to train employees, put up signs, update your internal controls, and document these changes, we will take these into consideration and the fine may be reduced to 50% of net gambling receipts, instead of 75%. Contact your local agent if you have questions.